

**Notice of Allowability**

Application No.

10/517,859

Examiner

Yong Chu

Applicant(s)

WADA ET AL.

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 9/15/2005.
2. ☒ The allowed claim(s) is/are 11-18.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All   b) ☐ Some\*   c) ☐ None   of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☒ Certified copies of the priority documents have been received in Application No. JP180028.
    3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 9/12/2005
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 6/5/2006.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

## **DETAILED ACTION**

Claims 1-10 are cancelled by amendment filed on 16 September 2005. Claims 11-19 are added by amendment filed on 16 September 2005. Therefore, claims 11-19 are currently pending in the instant application.

### ***Information Disclosure Statement***

Applicant's Information Disclosure Statements, filed on 12 September 2005, have been considered. Please refer to Applicant's copies of the PTO-1449 submitted herewith.

### ***Priority***

This application is a 371 national stage of PCT/EP03/06105, filed on 11 June 2003. Applicants claim the benefit of Japan Patent Application 2002-180028 filed on 20 June 2002.

### ***Response to Amendment***

The Supplementary Amendment by Applicants' representative Richard Henderson dated on 16 September 2005 has been entered.

### ***Examiner's amendment***

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided

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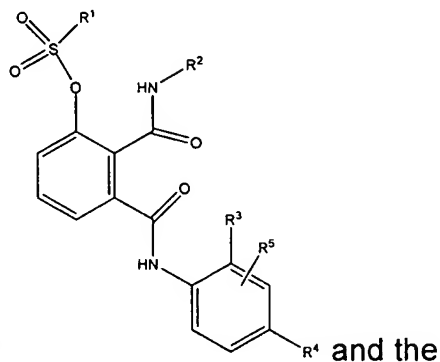
by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

Delete claim 19 of the Supplementary Amendment dated on 16 September 2005.

### ***Reasons for Allowance***

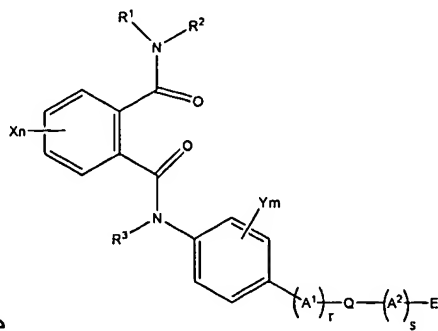
The present invention is directed to a compound, an insecticidal composition



containing one or more phthalamide compounds

methods to make and to use the compounds or composition for treating insect. The closest prior arts of record are co-pending U.S. Patent Applications 10/549,080, and 10/475,592 with the same assignee.

U.S. Patent Applications 10/549,080 (Wada) discloses a phthalamide compound



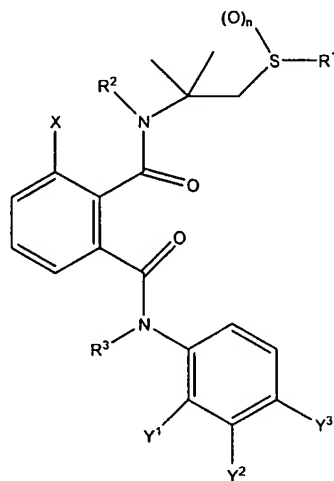
of general structure

, which has provisional Double

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Patenting claims over the instant application. However, the current application is a senior case with earlier filing date, and can be allowed to become patent, and the junior one 10/549,080 (Wada) need to be amended to avoid Double Patenting MPEP §804 (I) B(1).

U.S. Patent Applications 10/475,592 (Harayma *et al.*) with common inventor



(Rudiger Fisher) discloses a phthalamide compound

wherein X

is defined as halogen, which is distinct from the current application.

Therefore, claims 11-18 are allowed.

### ***Telephone Inquiry***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yong Chu whose telephone number is 571-272-5759.

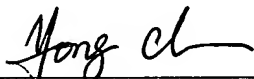
The examiner can normally be reached on 7:00 am - 3:30 pm EST.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph K. McKane can be reached on 571-272-0699. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
\_\_\_\_\_  
Yong Chu, Ph.D.  
Patent Examiner  
Art Unit 1626

KAMAL A. SAEED, PH.D.  
PRIMARY EXAMINER  
  
\_\_\_\_\_  
for Joseph K. McKane  
Supervisory Patent Examiner  
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